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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MARY E. BARBOUR AS TRUSTEE  
FOR THE MARY E. BARBOUR  
FAMILY TRUST ONE, Derivatively  
On Behalf of BROCADE  
COMMUNICATIONS SYSTEMS,  
INC..

**Plaintiff,**

vs.

GREGORY L. REYES, DAVID L. HOUSE, MICHAEL KLAYKO, RICHARD DERANLEAU, KUMAR MALAVALLI ANTONIO CANOVA, MICHAEL J. BYRD, STEPHANIE JENSEN, NEIL DEMPSEY, SANJAY VASWANI, L. WILLIAM KRAUSE, ROBERT R. WALKER, GLENN C. JONES, MICHAEL J. ROSE, SETH D. NEIMAN, NICHOLAS G. MOORE, CHRISTOPHER B. PAISLEY, WILLIAM K. O'BRIEN, LARRY SONSINI, MARK LESLIE, TYLER WALL, RENATO A. DIPENTIMA, JOHN W. GERDELMAN, KPMG, LLP, WILSON SONSINI GOODRICH & ROSATI, P.C. AND DOES 1-25, inclusive.

## Defendants.

Case No. C 08-02029 CRB

PLAINTIFF MARY E.  
BARBOUR'S [PROPOSED]  
ORDER SETTING SCHEDULE  
FOR SPECIAL LITIGATION  
COMMITTEE

Dept.: 8

1 and

2 BROCADE COMMUNICATIONS  
3 SYSTEMS, INC., a Delaware  
corporation,

4 Nominal Defendant.

5 WHEREAS, on June 12, 2008 the Court held a Case Management  
6 Conference in the above-captioned matter;

7 WHEREAS, the Court heard argument from counsel for Plaintiff and counsel  
8 for Brocade's Special Litigation Committee as to how the action should proceed  
9 over the next few months;

10 WHEREAS, counsel for the SLC advised the Court that the SLC has reached  
11 a conclusion to pursue various claims against 11 prospective defendants relating to  
12 the backdating of stock options at Brocade;

13 WHEREAS, counsel for the SLC advised the Court that letters would be  
14 mailed to the 11 defendants on June 13, 2008 advising the defendants that the SLC  
15 had authorized claims to be pursued against such individuals, identifying the  
16 claims, and providing the defendants until June 27, 2008 to provide a response, if  
17 any, to the SLC;

18 WHEREAS, the SLC will finalize its Resolution and report by July 11, 2008,  
19 after receiving responses (if any) from the 11 defendants;

20 WHEREAS, the SLC has indicated its intent to meet with Plaintiff's counsel  
21 to discuss the prosecution of the claims and Plaintiff's counsel's role in the  
22 prosecution of such claims, should the parties be able to reach an agreement;

23 WHEREAS, the Court has been informed that, on June 13, 2008, the SLC's  
24 counsel sent letters to the prospective defendants advising them that the SLC has  
25 decided to assert claims against them on behalf of Brocade and that the prospective  
26 defendants could make any written submissions by June 27, 2008;

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1 THEREFORE, IT IS ORDERED AS FOLLOWS:

2 1. The Special Litigation Committee (“SLC”) shall finalize its conclusions,  
3 Resolution, and report by July 11, 2008. A copy of the Resolution and  
4 report shall be provided to the Court and Plaintiff’s counsel the same day.

5 2. Plaintiff may file any motion she wishes, including any motions relating  
6 to advancement, indemnification, or repayment of legal fees by the  
7 individual defendants, but no hearing on such motions shall occur prior to  
8 mid-August 2008. The parties shall work cooperatively together to  
9 schedule a mutually convenient briefing schedule and hearing date.

10 3. Discovery is stayed until further notice.

11 4. A further Status Conference is set for July 18, 2008. At the conference, if  
12 Plaintiff’s counsel and counsel for the SLC have not reached a mutually  
13 agreeable resolution regarding prosecution of claims, and if Plaintiff  
14 desires to challenge the independence, good faith, or conclusions reached  
15 by the SLC, the Court will entertain argument from counsel about  
16 scheduling matters and discovery pertaining to any such challenge.

17 IT IS SO ORDERED.

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19 Dated:

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21 THE HON. CHARLES R. BREYER  
22 UNITED STATES DISTRICT JUDGE  
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